IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 24TH DECEMBER 2007 / 3RD POUSHA 1929

WP(C).No. 38143 of 2007(N)

PETITIONER:

A.M.SUBAIR, S/O. MOHAMED,
AGED 40 YEARS, PROPRIETOR, A.M.S. INDUSTRIES,
VP XIII/640B, MUKUTTINADA, PONJASSERRY P.O.,
PERUMBAVOOR, ERNAKULAM DISTRICT.

BY ADV. DR.K.B.MUHAMED KUTTY (SR.)

RESPONDENT:

COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAXES CHECKPOST, FEORKE P.O.,
KOZHIKODE - 673 631.

BY GOVERNMENT PLEADER SRI. K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

==========

W.P.(C)NO.38143 OF 2007

==========

Dated this the 24th day of December 2007

JUDGMENT

Petitioner is a dealer registered under the Kerala Value Added Tax Act. He is engaged in manufacture and sale of plywood, block board etc. On 19.12.2007, statutory delivery note was got endorsed by the assessing authority, for transportation of a consignment of ply wood. According to the petitioner, the consignment was to consist 18 m.m. plywood blocks. Apparently, the consignee desired the pieces to be cut into 6 m.m., 10 m.m. and 15 m.m. According to the petitioner, this change was not noted in the invoice or delivery note. But the quantity consigned was the same as originally agreed upon.

2. On 20.12.2007, the goods were detained in Feroke. The allegation seems to be a discrepancy in the description of the goods and quantity of the goods as noted in the invoice and delivery note on one hand and physical verification on the other. Goods were therefore directed to be detained under Ext.P4.

3. I have heard the learned counsel for the petitioner and the learned government pleader and I have perused the notice of Ext.P4 and also the averments in the writ petition.

4. Taking note of the fact that the petitioner is a registered dealer and the goods in question are consigned in the course of an interstate transportation and taking further note of the fact that the goods are ply wood, though there is a discrepancy in the description of the goods being consigned, I am of the view that it would be appropriate that the vehicle and the goods be released on a bond being executed by the petitioner. At the same time, the adjudication as contemplated under Ext.P4 will go on.

5. The writ petition is therefore disposed of directing the respondent to release the vehicle and the goods detained under Ext.P4 on the petitioner executing a bond without sureties. It is made clear that the adjudication under Ext.P4 will go on in accordance with law.

V.GIRI, JUDGE

css/